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WASHINGTON NOTES

AN INQUIRY INTO PRICES

FEDERAL INCORPORATION

AN IMPORTANT TAX DECISION

POSTAL SAVINGS BANK PLANS

THE CANADIAN BANKING SYSTEM

An important step has been taken by the Senate in determining to authorize an investigation into the costs of living in the United States—as affected by recent changes in prices, alterations in the supply and cost of production of gold, and other circumstances—as well as into the variations in rates of wages within recent years. This action was taken by the Senate on February 9, and is the outcome of a lengthy struggle continuing almost since the beginning of the current session of congress. It was sought by Democrats and others, at the beginning of the session, to force the passage of a resolution providing for such an investigation; but the leaders in Congress have resisted any such undertaking up to the present time because of the belief, existing in some quarters, that it would result in giving opponents some political capital. An effort on the part of the Ways and Means Committee of the House, some weeks ago, to secure permission to open an inquiry of the kind now contemplated was followed by an unofficial announcement at the White House that the President intended to request the Tariff Board in the Treasury Department to begin a thorough investigation into tariff schedules, costs of production, and of course comparative prices asked in this and foreign countries for staple articles. The action thus taken convinced the Senate leaders that it would be dangerous to allow the inquiry to slip into other hands, and it was deemed best to forestall work on the part of the Tariff Board which might prove dangerous. The passage of the resolution of February 9 has been the consequence. The resolution adopted is the so-called “Elkins resolution” presented originally by Senator Elkins, of West Virginia, but now accepted in a somewhat changed form. As passed, the resolution gives power to employ experts and to make a thorough study including the effect of the tariff and of other legislative measures upon prices. Statements on the part of Senate leaders are to the effect that besides holding “hearings” of the usual congressional type at which more or less interested witnesses will testify, it is intended to employ competent students of prices for the purpose of compiling

material comparable to that which was prepared for the Senate Finance Committee some years ago as the "Report on Wholesale Prices and Wages." Leading spirits in the Senate, however, assert their intention to hasten the progress of the investigation in order to make its results available before the political campaign of next autumn. The scantiness of the statistics of wages and prices now regularly prepared and issued by the federal government was strikingly illustrated during the course of the Senate debate on the Elkins and other resolutions authorizing the present inquiry when the Department of Commerce and Labor was called upon for such data as it might have already in its possession and responded only with a few scattered figures partly drawn from the reports of the Bureau of Labor and partly from secondary sources.

An important step in furtherance of the programme of the Taft administration for the passage of "constructive legislation" has been taken in the presentation to Congress of a bill drawn by Attorney General Wickersham and providing for the incorporation of enterprises under federal law. The measure is the result of several weeks of work on the part of the attorney-general preceded by months of cabinet and other deliberations. It has been introduced in the two houses of Congress by the chairmen of the judiciary committees, making its appearance in the lower chamber as *H. R. 20,142*. The bill provides for the formation of corporations by any five or more persons to engage in trade between the several states or with foreign nations, etc. Such a concern is to have a capital stock of not less than \$100,000 and the articles of incorporation are to state what part of the capital is to be contributed in property other than money. The Commissioner of Corporations is vested with authority to examine the articles and to ascertain that they comply in all respects with the terms of the law. Corporations thus formed are to have all the powers usually granted to trading corporations but no such corporation thus formed is to be allowed to purchase, acquire, or hold stock in any other corporation. No corporation is to be allowed to engage in the banking business in any way. Two or more kinds or classes of stock may be issued by the concerns and the usual "stock books," etc., are to be kept. All of the ordinary financial powers, of assessing stock and the like, are vested in the board of directors. In sec. 17 is found the provision that while the corporations may

purchase any property that they need for their regular business, they shall be required to file in the office of the Commissioner of Corporations before issuing any stock in payment for such property a statement describing the property, stating the number of shares issued, the terms of any existing agreement for the transfer of such property, and other material information. A statement of the value of the property made by two disinterested appraisers is also to be filed. Reports of business are to be filed with the Commissioner of Corporations each year, and provision is made for the forfeiture of the charters of corporations which have violated the terms of such charters. The proceedings against the concerns may take effect either through the appointment of receivers at the request of the attorney-general or by the passage of an act of Congress.

The federal incorporation act is lengthy and goes in detail into the various regulations and methods of control which are thought to be necessary for the proper regulation of the concerns to be organized. Thus far no serious attention has been given the measure by the committees in charge and nothing more is likely to be done at the current session of Congress than to hear testimony regarding it. Both President Taft and the attorney-general have however heartily indorsed the measure and the passage of some such bill will undoubtedly be made a cardinal feature of the programme of the government during Mr. Taft's retention of the presidential office. The measure is already looked upon with alarm by all believers in states'-rights doctrines as well as by those who foresee in such a plan an unavoidable interference with the fiscal systems of the several states due to the prospective abandonment by corporations of their state charters in favor of charters to be obtained from the national government.

In two important decisions rendered on January 17 the Federal Supreme Court has determined the controversy between the State of Kansas and the foreign corporations which have sought to gain entry into the state without being subject to the severe restrictions which were to have been imposed under the legislation of Kansas passed in 1898, 1901, and 1905. The decision which is likely to serve as a precedent is that of *Western Union Telegraph Co. v. State of Kansas* (No. 4, October Term, 1909). In this it is held that the effort of the state to penalize certain classes of foreign

corporations under the pretense of taxing them is unconstitutional. The issue arising out of the statutes already mentioned lay in the fact that Kansas sought to authorize a so-called State Charter Board to receive and pass upon applications from foreign corporations to do business within her limits. The application was to be accompanied by a fee of \$25. If the Charter Board, after it had determined that the concern was organized in the way required of domestic corporations, granted the application it might issue a certificate to that effect. Then the concern, before filing its charter with the secretary of state, was required to pay a tax of one-tenth of 1 per cent. of its capital stock upon the first \$100,000, one-twentieth of 1 per cent. upon the next \$400,000, etc., such tax to be used for the benefit of the permanent school fund. The Western Union declined to pay the tax demanded, and continued to do telegraph business of all kinds within the state. This was on the ground that the company had the right to do both interstate and local business in Kansas, that it had been doing a general business in the state for some time, and that its Kansas lines were upon the public domain and upon military and post roads. Other reasons for declining to pay the fee while continuing to do business were also offered. The result was a request from the state for a decree of ouster which was granted by the Kansas courts. The case was then transferred to the Supreme Court of the United States. That tribunal in deciding the case holds that such a decree as was asked for ought to have been refused on the ground that the legislation of Kansas was in violation of the commerce and due process clauses of the Constitution of the United States. "The company" says the court, "was not bound under any circumstances to surrender its constitutional exemption from state taxation direct or indirect in respect of its interstate business and its property outside of the state, any more than it would have been bound to surrender any other rights secured by the national Constitution." Moreover "the right of the telegraph company to continue the transmission of local business in Kansas could not be made to depend upon its submission to a condition prescribed by that state which was hostile to the letter and spirit of the Constitution." The company is therefore held to have acted entirely within its rights and without the necessity of relying upon the other grounds of argument which are enumerated in the briefs of its attorneys. This position on the part of the Supreme Court

is likely to operate unfavorably to a number of laws which have been adopted or are contemplated by southern and western states for the control of so-called "trusts" whose operation within the state limits has been objected to.

Senator Carter's amended postal savings bank bill (*S. 5876*, 61st Cong., 2d Sess.) has been reported from the Senate Committee on post-offices and post-roads and debated in the Senate. This action raises one of the most far-reaching financial questions that has been taken up by the federal government since the Civil War period. In discussing the postal-savings question heretofore there has been a tacit understanding throughout Congress that the discussion was to be merely for political effect and without any real intention of acting upon the measures proposed. The debate now undertaken is of more sincere character, as President Taft and the leaders of Congress have made known their purpose of pressing the bill through to success if possible. It is the view of the President that such action is demanded by the platform pledges of the Republican party, and to this opinion some of the leaders, however reluctantly, have assented. The Carter bill as now offered is little more than a skeleton outline of legislation. It contains the usual provisions regarding the deposit of funds in post-offices, and places almost the whole power over the system in the hands of a board of cabinet officers which is to include in its membership the Attorney-General of the United States, the Secretary of the Treasury, and the Postmaster-General. These officers are left, with but few limitations, to work out a system for the control of the savings deposited in the post-offices. Only in one particular does the bill show the result of detailed work. This is in relation to the use to be made of the savings. Heretofore it has been assumed that the savings when collected would be directly invested in United States government bonds. This idea has led some of the advocates of a central banking scheme to favor the plan because they believed that it would afford some means of relieving the national banks of their 2 per cent. bonds which would be a heavy burden if the institutions were to be deprived of the privilege of note issue based on bonds, either immediately or by some gradual process of transfer. On the other hand, the plan of investing the savings in the 2 per cent. bonds has not been satisfactory to the banks because they believed that in this way the various communities

and the banks therein would be deprived of their savings. In order to meet this objection and at the same time to block the plans of the central-bank advocates the Carter bill includes a section in which it is provided that the funds shall be redeposited in local banks in the communities from which they are received. The deposit is to be made in state and national banks indifferently, in proportion to capital, and the security given to the government may consist of a simple indemnifying bond such as can be obtained from any bonding company. Only in the event that the banks refuse the deposits are the funds to be deposited elsewhere or invested in securities. It is already plain that this question of using the deposits is to be the main point of contention around which the struggle will center. Whatever agreement may be arrived at by the leaders of the upper house the question will recur in the lower chamber, where the bill will have its final test. The disorganized condition of the House as well as the inability of the conservative leaders to dictate legislation there will materially interfere with the shaping of the measure in such a way as to conform to the central bank plan.

The National Monetary Commission has issued, after considerable delay, "The History of Banking in Canada" (*Senate Document No. 332*, 61st Cong., 2d Sess.) as the next in its series of monetary and banking monographs. Mr. Breckenridge in this work has brought down to the end of the year 1908 the history of the Canadian system, and has given a number of useful tables and reprints of legislation. The book is based upon the author's former monograph on the *Canadian Banking System*, but is purely historical, as well as considerably more condensed in its mode of treatment than the earlier work. The commission expects to continue issuing the monographs that have been prepared for it as rapidly as possible and this will constitute the sole work of the organization during the current winter and spring.